

## Legal Advice

relating to

Class Q, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in relation to a site at Fleece Farm, South Crosland, Huddersfield, HD4 7DA

**CLASS Q (BUILDINGS ON AGRICULTURAL UNITS AND FORMER AGRICULTURAL BUILDINGS TO DWELLINGHOUSES) PART 3 OF SCHEDULE 2 OF THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (ENGLAND) ORDER 2015**

**1 Background**

- 1.1 We have been asked to advise on a Prior Approval application for the determination of the change of use of 2 agricultural buildings to 6 residential units (Class C3 use) Class Q, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) at Fleece Farm, South Crosland, Huddersfield, HD4 7DA ("Site").
- 1.2 The issue on which legal advice is sought relates to the criteria set out in Q1 of Class Q (development not permitted) and specifically sub paragraph Q1 (p) which excludes permitted development rights under Class Q if the building does not have suitable existing access to a public highway.
- 1.3 A prior approval application for the change of use of 2 agricultural buildings to 6 dwellings reference 2025/93450 was not acceptable to the Council on the grounds that:
- "The buildings do not have suitable access to a public highway contrary to subparagraph Q.1(p) of Class Q, Part 3 of Schedule 2 of the Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)"
- 1.4 It should be noted that the Delegated Report in relation to the prior approval application reference 2025/93450 "passes" the remaining criteria in the subparagraph Q.1.

**2 The Prior Approval Application**

- 2.1 The Prior Approval application sets out in the accompanying Planning Statement that access to the public highway is achieved through the demolition of two existing agricultural buildings on the Site as approved by planning permission reference 2025/90570 to lead on to Midway, which is a public highway. Following the demolition of these buildings, the hardstanding that will remain is a suitable material for the access route. Therefore, this will provide the road to access the car park and residential properties, over existing hardstanding to the public highway.
- 2.2 The Proposed Block Plan reference (20)003 dated 02/04/2026 accompanying the Prior Approval application clearly shows how access to the public highway will be achieved following the approved demolition of two agricultural buildings. The photographs on this drawing show the existing condition of the hardstanding, in and around the buildings to be demolished, which will facilitate the access arrangements. It is not intended that any operational development which requires planning permission (which is not already in place) will be carried out on the Site for the access or parking arrangements.

**3 Legal Assessment**

- 3.1 The Town and Country Planning (General Permitted Development) Order 2015 (as amended) ("GPDO") does not define what constitutes "a suitable existing access" as required by subparagraph Q.1 (p) of Class Q, Part 3 of Schedule 2 of the GPDO nor does it elaborate on the specific criteria that determine whether an access is "suitable" for these purposes.
- 3.2 The limited number of planning appeal decisions that consider a "suitable existing access" confirm that it is a matter of planning judgement. The considerations for assessing the standard and the suitability of access include:
- 3.2.1 Physical Condition
- 3.2.1.1 the access route must be physically capable of being used by vehicles and pedestrians, including emergency vehicles; and
- 3.2.1.2 it should not be excessively steep, narrow, or obstructed;

### 3.2.2 Legal Right of Access

there must be a legal right to use the access route from the site to the public highway;

### 3.2.3 Safety

the access must be safe for vehicles and pedestrians;

### 3.2.4 Practicality

3.2.4.1 the access must be usable in practice, not just in theory;

3.2.4.2 it should be suitable for regular use by future occupants; and

### 3.2.5 Surface and Maintenance

the route should be of a reasonable standard (not necessarily fully surfaced, but not impassable).

## 3.3 Examples of some recent appeal decisions which consider the issue of "suitable existing access" for the purposes of Q.1 (p) of Class Q, Part 3 of the GPDO are summarised below:

### 3.3.1 Appeal reference: APP/R3650/W/25/3373057 16 December 2025.

Access to the building was via an unmade agricultural track that ran from a gated entrance off a surfaced lane. The track consisted of 2-wheel ruts through grass and soil and passed alongside post and wire fencing before curving toward the barn. The route rose upwards towards the building. The inspector found that while the informal track might be adequate for agricultural purposes that, its incline and rudimentary finish lacked the construction quality and year-round durability typically associated with residential use. Therefore, the proposed access failed to provide a suitable existing access to a public highway.

### 3.3.2 Appeal Reference: APP/J1535/W/24/3356461 18 June 2025

An access track was not considered a suitable existing access to the public highway. The access track was over 200m long and was not wide, so it was difficult for 2 cars to pass, there were no passing bays and no dedicated footway. For all these reasons it failed to comply with paragraph Q.1(p) of the GPDO.

### 3.3.3 Appeal reference: APP/1915/W/24/3358037 3 June 2025

The development comprised the conversion of a former milking and sheep pen barn reached by way of the existing field access/ bridleway. A swept path analysis showed 3 cars could be parked on the site and would be capable of entering and leaving in a forward gear. There was also turning for a fire appliance. The inspector concluded that the proposal would have a suitable existing access to a public highway.

### 3.3.4 Appeal reference: 6005179 27 April 2026

Fronting the appeal building was an existing area of hard standing and access on to the public highway that also served an adjacent agricultural building that also had consent for two dwellings. The inspector found that the existing radii was wide and partly surfaced and consequently he found the building to have a suitable existing access to a public highway, In addition the inspector acknowledged that improvements to visibility splays, as they reasonably related to the subject matter of the prior approval as per Paragraph W (13) of the GDPO, could be covered by condition.

- 3.4 Whilst the assessment of whether there is a suitable access to the public highway is dependent upon the particular facts of a case, the appeal decisions provide an indication of what inspectors find acceptable for an access to meet the criteria in paragraph Q.1(p) of the GPDO.
- 3.5 In relation to this Prior Approval application, the access proposal without the requirement for any construction works would meet the criteria in paragraph Q.1 (p) of the GPDO. Applying the considerations set out in paragraph 3.2 of this advice, the proposed access arrangements satisfy all those assessment points. Compared to the access arrangements involved in the above appeal decisions that failed the suitable existing access test, the access arrangements in this Prior Approval application are in good physical condition, are safe, practical and there are no legal constraints on the use of the access. The use of the existing hardstanding on the site means that the access route is of a reasonable standard.
- 3.6 There are no material reasons that the existing access road in the Prior Approval application would meet the criteria in paragraph Q.1 (p) of the GPDO, that been the building does not have suitable existing access to a public highway. The Prior Approval application clearly shows the existence of a suitable existing access and the appeal decisions cited in this advice support this case. Therefore, paragraph Q.1 (p) of the GPDO is not a reason for the proposed development not qualifying as permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Signed *Clarion* .....

**Clarion Solicitors Limited**

Date 11 May 2026